

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID PEPIN,

Plaintiff,

Case No. 2:19-cv-00042

v.

Honorable Hala Y. Jarbou
Magistrate Judge Maarten Vermaat

WISCONSIN CENTRAL LTD, d/b/a CN,

Defendant.

ORDER

The Court held a hearing on Defendant's Motion for Status Conference (ECF No. 177) on August 4, 2021. At the Status Conference, the Court addressed the parameters of the work to be completed by the selected third-party reviewer ("TPR") referenced in the Court's Order (ECF No. 175) entered on July 26, 2021. For the reasons stated on the record:

IT IS ORDERED that:

1. Within seven (7) days of this Order, the parties shall submit the following documents to the selected TPR (ECF No 183): (1) plaintiff's Complaint (ECF No.1); (2) WCL's Answer (ECF No. 5); (3) Order (ECF No. 93); and (4) Order (ECF No. 175). In the event the TRP identifies additional papers that are necessary to accomplish his work, the parties shall work together to provide the TPR such documents, if any.

2. Plaintiff shall provide the TRP the subject memory card, or an exact copy of it, within seven (7) days of this Order;

3. The TPR is authorized to purchase equipment, if necessary, needed to open and view the contents of the memory card. Plaintiff shall reimburse the TPR for the cost of this expense.

4. Within seven (7) days of this Order, plaintiff shall deliver to the TRP and WCL a list of the videos, photographs, and documents that plaintiff asserts are irrelevant and sensitive, i.e., not discoverable. The list shall include the reasons and authority supporting plaintiff's objections for each item listed.

5. Within three (3) days of WCL receiving plaintiff's objections, WCL shall provide to the TPR and plaintiff its responses to plaintiff's objections, which shall include the reasons and authority supporting WCL's position on the discoverability of the photograph, video, and document in question.

6. Any unresolved objections shall be submitted to the TRP for determination as to whether the item is discoverable. A "relevant" photograph, video, or document depicts plaintiff participating in recreational activities, hobbies, vacations, family outings, and parties on or after February 15, 2015. The TPR may conduct conferences with plaintiff and WCL as part of this resolution process in which the parties shall participate in good faith.

7. Within twenty-one (21) days of this Order, the TPR shall deliver a list of all unresolved objections and all discoverable materials to plaintiff and WCL. The materials produced may be provided via memory card, thumb drive or by whatever reasonable means determined by the TPR. The materials produced shall not include items, if any, that plaintiff still asserts should not be produced to defendant.

8. Any party aggrieved by the TPR's decisions may appeal them to this Court within seven (7) days after delivery of the discoverable materials and list of unresolved objections.

9. Within thirty (30) days of the completion of the TPR's work, the TPR shall submit to the parties and the Court an itemized invoice detailing the work performed and expenses incurred. Plaintiff shall reimburse the TPR for the fees and expenses of the TPR.

Dated: August 6, 2021

/s/ Hala Y. Jarbou
HALA Y. JARBOU
UNITED STATES DISTRICT JUDGE